

Nos. 25-3030, 25-3034

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In the United States Court of Appeals for the Ninth Circuit

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AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES, AFL-CIO, *et al.*,

*Plaintiffs-Appellees,*

v.

DONALD J. TRUMP,  
*in his official capacity as President of the United States, et al.,*

*Defendants-Appellants.*

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On Appeal from the United States District Court  
for the Northern District of California

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In re DONALD J. TRUMP,  
*in his official capacity as President of the United States, et al.,*

*Petitioner.*

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On Petition for Writ of Mandamus to the United States District Court  
for the Northern District of California

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**MOTION OF CONSTITUTIONAL ACCOUNTABILITY CENTER FOR  
LEAVE TO FILE AMICUS CURIAE BRIEF IN OPPOSITION TO  
EMERGENCY MOTION FOR STAY PENDING APPEAL/PETITION FOR  
WRIT OF MANDAMUS**

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Movant Constitutional Accountability Center hereby requests leave under Federal Rule of Appellate Procedure 29(a)(3) to file an *amicus curiae* brief in opposition to the Emergency Motion for Stay Pending Appeal/Petition for Writ of Mandamus. The brief is attached as an exhibit to this motion. In support of its motion, *amicus* states as follows:

1. Constitutional Accountability Center (CAC) is a think tank and public interest law firm dedicated to fulfilling the progressive promise of the Constitution's text and history. CAC works to improve understanding of the Constitution and preserve the rights, freedoms, and structural safeguards that it guarantees, and accordingly has an interest in this case.

2. CAC has filed *amicus* briefs in courts of appeals and other courts addressing Congress's plenary power over the existence and structure of executive departments and agencies. *See, e.g.*, Brief of Current and Former Members of Congress as *Amici Curiae* in Support of Appellees and Affirmance, *NTEU v. Vought*, Nos. 25-5091, 25-5132 (D.C. Cir. filed May 9, 2025); Brief of Constitutional Accountability Center as *Amicus Curiae* in Support of Plaintiff's Motion for Preliminary Injunction, *Pers. Servs. Contractor Ass'n v. Trump*, No. 25-cv-469 (D.D.C. filed May 2, 2025); Brief of Constitutional Accountability Center as *Amicus Curiae* in Support of Plaintiffs' Motion for Summary Judgment and in Opposition to Defendants' Motion to Dismiss Or, in the Alternative, Motion for Summary Judgment, *Am. Foreign Serv. Ass'n v. Trump*, No. 25-cv-352 (D.D.C. filed Apr. 25, 2025). Accordingly, CAC has developed expertise regarding Congress's power to reorganize federal agencies and the history of Congress's delegation of that power to the President, and its brief provides a unique historical perspective and more detail on this important aspect of this case than the parties can provide.

3. The attached brief explains that Congress has plenary power over the creation, reorganization, and abolition of federal agencies and has exercised that power since the Founding. The brief also explains that historical practice shows that when Congress believes that the President should have streamlined authority to reorganize the executive branch, it has delegated that power to the President through carefully tailored legislation, but absent such delegation, the President cannot unilaterally reorganize federal agencies.

4. All parties consent to the filing of this brief.

WHEREFORE, movant respectfully requests leave to file the accompanying *amicus curiae* brief.

Respectfully submitted,

/s/ Elizabeth B. Wydra  
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*Counsel for Amicus Curiae*

Dated: May 14, 2025

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on May 14, 2025.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Executed this 14th day of May, 2025.

/s/ Elizabeth B. Wydra  
Elizabeth B. Wydra

*Counsel for Amicus Curiae*